

1 JINA L. CHOI (Admitted to N.Y. bar)
2 SUSAN F. LAMARCA (Admitted to Cal. bar)
3 lamarcas@sec.gov
4 DAVID A. BERMAN (Admitted to N.Y. bar)
5 bermand@sec.gov

6 Attorneys for Plaintiff
7 SECURITIES AND EXCHANGE COMMISSION
8 44 Montgomery Street, 28th Floor
9 San Francisco, California 94104
10 Telephone: (415) 705-2500
11 Facsimile: (415) 705-2501

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

12 SECURITIES AND EXCHANGE
13 COMMISSION,

14 Plaintiff,

15 v.

16 USA REAL ESTATE FUND 1, INC. and
17 DANIEL F. PETERSON,

18 Defendants.

Case No. 13-cv-157-LRS
FINAL JUDGMENT AS TO
DEFENDANT USA REAL
ESTATE FUND, INC. and
DEFENDANT DANIEL F.
PETERSON

1 This matter came before the Court on Plaintiff Securities and Exchange
2 Commission's (the "Commission" or the "SEC") Motion for Default Judgment as to
3 Defendant USA Real Estate Fund 1, Inc. ("USA Fund") and for Final Judgment as
4 to Daniel F. Peterson. Based upon the submissions of the parties, the materials in the
5 record, and good cause appearing therefrom, the Court finds:

6 1. Defendant USA Fund is in default and the Clerk is directed to enter
7 defendant USA Fund's default.

8 2. The Commission has demonstrated that a default judgment against
9 Defendant USA Fund is appropriate, and on this basis, the Court finds that
10 defendant USA Fund violated Section 10(b) of the Securities Exchange Act, 15
11 U.S.C. § 78j(b), and Exchange Act Rule 10b-5, 17 C.F.R. § 240.10b-5, and Section
12 17(a) of the Securities Act, 15 U.S.C. § 77q(a), as alleged in the complaint. The
13 SEC's motion for default judgment is therefore GRANTED.

14 3. The Commission has also demonstrated that, unless restrained or
15 enjoined, defendants have each engaged in, and are both likely again to engage in,
16 transactions, acts, practices and courses of business which constitute violations of
17 the federal securities laws, namely Section 10(b) of the Exchange Act and Rule 10b-
18 5, and Section 17(a) of the Securities Act. Accordingly, after considering the
19 appropriate equitable considerations and giving weight to the public's interest, the
20 SEC's motion for final judgment against Defendant Peterson, and the motion for
21 default judgment against Defendant USA Fund, ECF No. 60, are hereby
22 GRANTED.

23
24 IT IS THEREFORE ORDERED:

25
26 I.

27
28 Defendant Daniel F. Peterson, his agents, servants, employees, attorneys, and
those persons in active concert or participation with any of them, who receive actual
notice of this Final Judgment, by personal service or otherwise, and each of them,

1 are permanently restrained and enjoined from directly or indirectly participating in
2 the issuance, offer, or sale of any security of USA Real Estate Fund 1, Inc. and its
3 subsidiaries.

4 **II.**

5 Defendant Daniel F. Peterson, his agents, servants, employees, attorneys, and
6 those persons in active concert or participation with any of them, who receive actual
7 notice of this Final Judgment, by personal service or otherwise, and each of them,
8 are permanently restrained and enjoined from directly or indirectly soliciting any
9 person or entity to purchase or sell any security.

10 **III.**

11 Defendant Daniel F. Peterson and USA Real Estate Fund 1, Inc., and each of
12 their respective agents, servants, employees, attorneys, and those persons in active
13 concert or participation with any of them, who receive actual notice of this Final
14 Judgment, by personal service or otherwise, and each of them, are permanently
15 restrained and enjoined from directly or indirectly, by the use of any means or
16 instrumentality of interstate commerce, or of the mails, or of any facility of any
17 national securities exchange:

18 a. employing any device, scheme, or artifice to defraud;
19 b. making any untrue statement of a material fact or omitting to state a
20 material fact necessary in order to make the statements made, in the light of
21 the circumstances under which they were made, not misleading; or
22 c. engaging in any act, practice, or course of business which operates or
23 would operate as a fraud or deceit upon any person;
24 in connection with the purchase or sale of any security, in violation of Section 10(b)
25 of the Securities Exchange Act of 1934, 15 U.S.C. § 78j(b), and Exchange Act Rule
26 10b-5, 17 C.F.R. § 240.10b-5.

27 **IV.**
28

Defendant Daniel F. Peterson and USA Real Estate Fund 1, Inc., and each of their respective agents, servants, employees, attorneys, and those persons in active concert or participation with any of them, who receive actual notice of this Final Judgment, by personal service or otherwise, and each of them, are permanently restrained and enjoined from, in the offer or sale of any securities, by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, directly or indirectly:

1. employing any device, scheme, or artifice to defraud;
2. obtaining money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
3. engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser;

in violation of Section 17(a) of the Securities Act of 1933, 15 U.S.C. § 77q(a).

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant Daniel F. Peterson and USA Real Estate Fund 1, Inc., and each of them, are jointly and severally liable for disgorging ill-gotten gains \$435,495, together with prejudgment interest thereon in the amount of \$1,394.70, for a total disgorgement of \$436,889.70. Defendants shall make payment of the total amount within thirty (30) days by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission and shall be delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be accompanied by a letter identifying Defendant Daniel F. Peterson or USA Real Estate Fund 1, Inc. as a defendant in this action; setting forth the title and civil action number of this action and the name of

1 this Court; and specifying that payment is made pursuant to this Final Judgment.
2 Defendants shall pay post-judgment interest on any delinquent amounts pursuant to
3 28 USC § 1961. The Commission shall remit the funds paid pursuant to this
4 paragraph to the United States Treasury.

5 **VI.**

6 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Defendant
7 Daniel F. Peterson shall pay a civil penalty in the amount of \$105,000.00 pursuant to
8 Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)] and Section 20(d) of the
9 Securities Act [15 U.S.C. § 77t(d)]. Defendant shall make this payment within
10 thirty (30) business days after entry of this Final Judgment by certified check, bank
11 cashier's check, or United States postal money order payable to the Securities and
12 Exchange Commission. The payment shall be delivered or mailed to the Office of
13 Financial Management, Securities and Exchange Commission, Operations Center,
14 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be
15 accompanied by a letter identifying Daniel F. Peterson as a defendant in this action;
16 setting forth the title and civil action number of this action and the name of this
17 Court; and specifying that payment is made pursuant to this Final Judgment.
18 Defendant shall pay post-judgment interest on any delinquent amounts pursuant to
19 28 USC § 1961. The Commission shall remit the funds paid pursuant to this
20 paragraph to the United States Treasury.

21 **VII.**

22 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Defendant
23 USA Real Estate Fund 1, Inc. shall pay a civil penalty in the amount of \$105,000.00
24 pursuant to Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)] and Section
25 20(d) of the Securities Act [15 U.S.C. § 77t(d)]. Defendant shall make this payment
26 within thirty (30) business days after entry of this Final Judgment by certified check,
27 bank cashier's check, or United States postal money order payable to the Securities
28 and Exchange Commission. The payment shall be delivered or mailed to the Office

1 of Financial Management, Securities and Exchange Commission, Operations Center,
2 6432 General Green Way, Mail Stop 0-3, Alexandria, Virginia 22312, and shall be
3 accompanied by a letter identifying USA Real Estate Fund 1, Inc. as a defendant in
4 this action; setting forth the title and civil action number of this action and the name
5 of this Court; and specifying that payment is made pursuant to this Final Judgment.
6 Defendant shall pay post-judgment interest on any delinquent amounts pursuant to
7 28 USC § 1961. The Commission shall remit the funds paid pursuant to this
8 paragraph to the United States Treasury.

9 The Clerk of the Court is directed to enter this order, forward copies to
10 counsel of record and CLOSE THE FILE.

11
12 Dated this 12th day of September, 2014.

13 *s/Lonny R. Suko*
14

15 LONNY R. SUKO
16 United States District Judge
17
18
19
20
21
22
23
24
25
26
27
28